

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD A. CERRONE,

Plaintiff,

vs.

MICHAEL J. ASTRUE,
 COMMISSIONER OF SOCIAL
 SECURITY ADMINISTRATION,

Defendant.

Case No. 2:12-cv-01362-JCM-CWH

FINDINGS AND RECOMMENDATION

Plaintiff submitted an Application to Proceed *in Forma Pauperis* (#1) and Complaint on August 1, 2012. On September 7, 2012, the undersigned Magistrate Judge recommended denying Plaintiff's Application to Proceed *in Forma Pauperis*. See Report and Recommendation (#2). The undersigned Magistrate Judge found that Plaintiff's monthly income exceeded his identified monthly expenses. On October 24, 2012, the District Judge adopted the recommendation and denied Plaintiff's Application. Plaintiff was given thirty days to pay the \$350.00 filing fee and has failed to do so.

Based on the foregoing and good cause appearing therefore,

RECOMMENDATION

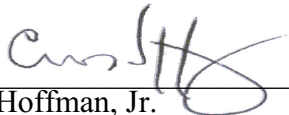
IT IS HEREBY RECOMMENDED that this action be **dismissed** for failure to pay the filing fee.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and

1 brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual
2 issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt*
3 *v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

4 Dated this 9th day of January, 2013.

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7 C.W. Hoffman, Jr.
8 United States Magistrate Judge
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